REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Rejection of Claims 1-3, 6, 9, 11-12, and 16-17 under 35 U.S.C. §102(b).

Claims 1-3, 6, 9, 11-12, and 16-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Feng (U.S. Patent 5,857,985). In response, the Applicant respectfully submits that the Feng reference does not teach all of the limitations recited in the rejected claims and, therefore, the rejected claims are not anticipated by that reference. Specifically, the Feng reference does not disclose "*a remote control input interface for enabling a user to control at least one electronic entertainment device.*" Claim 1 is an independent claim, and all the other claims recited in this rejection depend from Claim 1.

(a) Independent Claim 1.

In support of the rejection, the Examiner has pointed to a detachable "on-off switch" 40 in Feng as disclosing a *remote control input interface for enabling a user to control at least one electronic entertainment device"* as claimed by the Applicant. However, the Feng invention has few structural or functional similarities to the apparatus disclosed and claimed by the Applicant. The detachable switch 41 may be separated from the housing and is tethered by a wire. The apparatus disclosed and claimed by the Applicant does not have this feature. The Feng switch 41 is not capable of "*controlling at least one electronic entertainment device*" as claimed by the Applicant in Claim 1. There is no structure disclosed in Feng that would provide this function. Accordingly, there is at least one element that is present in the claims that is missing from the cited FENG reference and therefore Claim 1 is not anticipated by the reference.

Furthermore, the Examiner has applied an interpretation to the "remote control…" language of Claim 1 that is different from that found in the specification and infers a

function that is not present in Feng. In particular, the specification defines the term "remote control" to "refer to a device that allows the user to control one or more electronic entertainment devices from a distance." Using this term in conjunction with "electronic entertainment devices," as defined in the specification, it is clear that in the instant invention, the "remote" portion of the instant invention refers only to the "entertainment devices", and **not** the massage portion of the invention. In comparison, Feng discloses a massage unit having a controller that does not control any entertainment devices, and that sometimes controls the massage functions of the unit at a distance (see, e.g., Figure 5 of Feng, in which the controller portion (43) is disclosed as attached by a cord).

The Feng invention is not capable of controlling an electronic device and, therefore, the remote control element of the claims is absent. Because Feng does not teach each element recited in independent Claim 1, the rejection of Claim 1 and the claims that depend therefrom under 35 U.S.C. §102(b) is improper and should be withdrawn.

(b) Dependent Claims.

Each of Claims 2, 3, 6, 9, 11-12, and 16-17 depend from Claim 1 shown above to be patentable and these dependent claims should likewise be patentable. In addition, each dependent claim adds limitations that are not present in Feng.

Claim 2 provides a list of devices for which the input interface enables control, and Claims 3 and 6 specify the manner of communicating. Nothing is controlled by Feng other than the massage unit itself. Nothing whatsoever with respect to the optional audio source is controllable with the unit of Feng.

Claim 9 requires a grippable portion including ribs, which is not present in Feng.

Claim 12 requires that the input interface deactivate control over said electronic entertainment device to avoid sending inadvertent commands." Nothing in Feng deactivates the controls. There is no reason to deactivate the controls in Feng, because nothing is controlled by Feng other than the massage functions.

Because elements of each of Claims 2, 3, 6, 9, 11-12, and 16-17 are not disclosed in Feng, Feng cannot anticipate these claims under 35 U.S.C. §102, and the rejection should be withdrawn.

2. Claims 1-3, 6, 9, 11-12, and 16-17 are nonobvious.

Nor would the subject matter of Claims 1-3, 6, 9, 11-12, and 16-17 be obvious to a person having ordinary skill in the art in view of Feng. Feng does not suggest, teach, or provide motivation for an integrated remote control and massage unit as recited in the Applicant's claims. Feng only provides a massage unit that can be controlled, and does not address the control of any other devices. Thus, Claims 1-3, 6, 9, 11-12, and 16-17 recite structure that is patentable over the Feng reference for purposes of 35 U.S.C. § 103.

3. Rejection of Claims 4-5, 7-8, 10, 13-15, 18-19, and 20-24 under 35 U.S.C. §103(a) generally.

As provided in the MPEP, "To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. [citations] If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." Obviousness under Section 103 will generally not be found if the combination 1) does not function as disclosed by the Applicant, 2) requires substantial modifications to be made to the primary reference, or 3) the combination does not have all of the elements recited in the claims.

In the present case, the massage unit of Feng does not have the structure and does not perform the function of the "remote control interface" claimed by the Applicant. Likewise, none of the combinations proposed by the Examiner provides the structure of function for a "*remote control input interface for enabling a user to control at least one electronic entertainment device.*" Accordingly, the claims are not obvious in view of the Feng reference alone or in combination with any of the other patents cited by the Examiner and a case of obviousness has not been made. Therefore, all of the dependent claims of Claim 1 should also be allowable.

4. Rejection of Claims 4-5 under 35 U.S.C. §103(a).

Claims 4-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Feng* (U.S. Patent 5,857,985) in view of *Moriyasu* (U.S. Patent 6,027,463).

The inventions of Moriyasu and Feng have the same functional capabilities with respect to modulation of the vibrations with an audio input source. Neither Feng nor Moriyasu alone or in combination disclose a "*remote control input interface for enabling a user to control at least one electronic entertainment device"* as claimed by the Applicant. Accordingly, the combination recited by the Examiner does not have an essential element of the claims and therefore a prima facie case of obviousness has not been shown.

The Examiner cites Figure 13A and col. 11, line 41 of Moriyasu as having "a remote control input comprising at least one light source and a touch screen" to be used in Feng as a "light source would be used to locate the device in the dark" and a touch screen to replace the buttons. The Applicant respectfully disagrees that the light source claimed by the Applicant or a remote control input is found in the Moriyasu.

It can be seen that the lights in Moriyasu, as disclosed in Figure 13A, are used to locate particular points on a person's body on Moriyasu's controller for massage, not to locate the device. Furthermore, there is no motivation in Moriyasu to use the light source for locating the device. Moriyasu's massage unit is a human-sized massage mat device, having a controller unit that is physically connected to it (see Figures 1 and 2 of Moriyasu). There is no motivation to incorporate a locator device, such as a light, into a unit that is not likely to get lost. Although Moriyasu discloses a transmitter from the home audio/video system that can be wireless, the wireless capabilities of Moriyasu are limited to avoiding the issue of hardwiring the speakers to the massage unit.

In addition, there is no motivation to incorporate the touch screen of Moriyasu into the unit of Feng. Feng discloses a small massaging device that is placed directly on the area for massaging (see, e.g., col. 3, ll. 19-23, in which the unit can be placed directly on the back), and is not limited as to regions of the body for placement. There

would be no use for "a graphic based interactive touch panel" such as that shown in Moriyasu in the device of Feng.

Thus, there is no motivation to combine Moriyasu and Feng in this manner, and the instant invention would not be obtained if the references could be combined. The rejection of Claims 4 and 5 under 35 U.S.C. §103(a) should be withdrawn.

5. Rejection of Claims 7-8, 10, and 18-19 under 35 U.S.C. §103(a).

Claims 7-8, 10, and 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Trivett (U.S. Patent 6,535,125).

The Trivett reference does not overcome the deficiencies of Feng as noted above. Neither Feng nor Trivett alone or in combination discloses an input interface for an electronic entertainment device as claimed in the independent claim. Specifically, Feng discloses a massaging unit and a controller connected to the massage unit by a cord. Feng does not disclose a remote control unit enabling a user to control an electronic entertainment device, as required by the claim. The massage unit itself does not meet the requirements of an "electronic entertainment device" as set forth in the specification. The specification clearly indicates that the instant invention (1) can control an electronic entertainment device and (2) massages. Feng does not meet these requirements, and the addition of the Trivett reference does not cure this deficiency. Trivett discloses only a remote control locator device.

Furthermore, there is no suggestion, incentive or motivation to combine Feng and Trivet because the massage unit of Feng, though portable, is large enough to cover the back and includes handles for manipulation with both hands and is not likely to be lost. The suggestion, motivation or incentive to combine must come from the references themselves rather than the hindsight of the Examiner. The Examiner appears to suggest that addition of a locator on any object is obvious, which simply is not the case. It is not always obvious to put locators on small objects, such as socks, even though they are easily misplaced. It is also not obvious to put locators on large

objects, such as blankets or pillows, which are not likely to be misplaced. Therefore, since the Feng unit is likely to be lost, there is no incentive to provide a locator found in the reference.

Secondly, the Trivett reference does not disclose a flashlight as claimed by the Applicant or a "flashing light" as stated by the Examiner. There is no reference to a light source or a "flashing light" in Trivett. The LED's identified are indicator lights and there is no indication that they flash. In any event, the Examiner interprets the term "flashing light" as equivalent of a "flashlight." This is an inaccurate characterization. The specification of the instant invention discusses a "flashlight," as known in the art, which may use any of a number of light sources. The LEDs that are disclosed in Trivett are used to indicate the current mode of the receiving unit, and, as such, would not illuminate in the manner that a flashlight does. Three single LEDs simply do not illuminate in this manner and the Trivett remote control locator does not function as a flashlight as claimed.

Thirdly, Trivett does not disclose a grippable portion comprising a plastic or thermoplastic elastomer. The Examiner's response is that "the device [in Trivett] is plastic" and that "any portion thereof is grippable". The portion of Trivett cited by the Examiner, at col. 2, ll. 65-66, states that the *signal transmitter* is "enclosed in housing (26) manufactured from a thin plastic material or the like." Trivett says nothing about the *remote control device* itself, which is the subject of Claim 10. Not only does Trivett not refer to the remote control device itself, it does not disclose an *elastomer*, as required by Claim 10. The Examiner seems to indicate that any object is grippable, which is overly broad. The Examiner also ignores Claim 9, from which Claim 10 depends, which specifies that the grippable portion include ribs.

Finally, the batteries taught by Trivett are not rechargeable. They are repeatedly referred to as "conventional" watch-type batteries, which are not rechargeable.

The combination of Feng and Trivett not only omits essential elements of Claims 7-8, 10, and 18-19, but also lacks any motivation for the combination. The rejections of

these claims under 35 U.S.C. §103(a) should be withdrawn.

6. Rejection of Claims 13-15 under 35 U.S.C. §103(a).

Claims 13-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Moriyasu (U.S. Patent 6,027,463) and Diamond (Canada Application 2,440,780).

Initially, neither Moriyasu nor Diamond overcomes the deficiencies of Feng as noted herein. Feng does not disclose an input interface for an electronic entertainment device, as indicated above. Accordingly, since Claim 1 is allowable, the claims that depend from that claim should also be allowable.

In support of the rejection, the Examiner stated, "Feng doesn't disclose the massaging surface being removable or a heating element in the massage surface. Moriyasu teaches changing the location and number of vibrators in a housing. (Col. 3, lines 39-41)." The Applicant respectfully disagrees that Moriyasu teaches changing the number of vibrators in the housing."

There is nothing in Moriyasu that discloses "one or more removable massage attachments" as claimed by the Applicant in Claim 13. It can be seen that the vibrating units disclosed in Moriyasu are permanently fixed in the mat and are not removable. There is nothing in Moriyasu that teaches changing the locations and the number of vibrators after manufacture of a massage mat. The language of Moriyasu found at Col. 3, lines 39-41, indicates that there is variability in mat design, not that the vibrators are removable from the mat. Moriyasu states "*[w]ith variation of mat sizes*, the number and location of vibrators can be modified depending on the application." (emphasis added). This language can only mean that different mat sizes may be designed to have vibrators in different orientations, not that the vibrators are removable. Moriyasu does not disclose that the vibrators are moveable or removable after the mat is manufactured.

Furthermore, the ability to add more or remove vibrators would be inconsistent with the manner in which Moriyasu operates, that is, in concert with one another with respect to an audio source. Removal or replacement of vibrator units by a user would

interfere with the operation of Moriyasu's device.

Finally, the Examiner's statement as to "making it possible to replace a damaged massage surface" is merely improper speculation since there is nothing related to this subject is disclosed in Moriyasu. The Examiner's speculation that it could be possible does not meet the legal requirements of the obviousness determination.

Accordingly, neither Moriyasu nor Feng discloses all the elements of the instant invention as claimed and therefore, the rejection under 35 U.S.C. §103(a) should be withdrawn.

7. Rejection of Claims 20 and 24 under 35 U.S.C. §103(a).

Claims 20 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Feng* (U.S. Patent 5,857,985) in view of *McDermott* (U.S. Patent 5,161,879) and further in view of *Trivett* (U.S. Patent 6,535,125).

In support of the rejection, the Examiner stated:

> "It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the flashlight having LED's as taught by McDermott could be substituted for the flashing light as taught by Trivett in order to use the LED's to control the flashing of the light."

The Applicant respectfully disagrees and submits that Trivett does not teach a "flashing light" or a "flashlight" and there is no incentive, suggestion or motivation found in any reference to provide a combination of an electronic device remote control with a flashlight and a massage unit and the rejection should be withdrawn.

Claim 20 depends from Claim 19, which requires a flashlight at least partially enclosed within the housing of the instant invention. Claim 20 requires that the flashlight comprise one or more LEDs. Claim 24 is an independent claim that requires a flashlight.

Regarding motivation, nothing in McDermott contemplates incorporating such a specialized item (covert operations flashlight) into a remote control or a massage device. Similarly, nothing in Feng or Trivett contemplates the addition of a flashlight into a hand held remote control device. Furthermore, the Applicant submits that the

indicator LEDs mentioned in Trivett are not the equivalent of a flashlight, using the conventional meaning of the term flashlight, and are not a light source of any kind. The specification of the present invention clearly describes a flashlight as is conventionally understood, using any of a number of light sources.

Secondly, the Examiner's statement "to use the LEDs to control the flashing of the light" is not understood. None of the references discloses a flashing light and there is no mention of a flashing light in specification or claims of the present invention.

Accordingly, neither McDermott nor Trivett overcomes the deficiencies of Feng as noted previously. Feng does not disclose an input interface for an electronic entertainment device. Trivett cannot be combined with Feng and McDermott to produce the instant invention as claimed. Although McDermott discloses a flashlight for covert operations having LED elements, there is no suggestion, teaching or motivation found in any reference to combine the LED elements to the massage unit of Feng or the alarm unit of Trivett. Therefore, the rejection of Claims 20 and 24 under 35 U.S.C. §103(a) should be withdrawn.

8. Rejection of Claims 21-23 under 35 U.S.C. §103(a).

Claims 21-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Schettino (U.S. Patent 6,236,621).

Claims 21-23 claim an electronic device remote control with a massage unit and a recording device. In support of the rejection, the Examiner cites Schettino, which discloses a pillow having a compartment containing an alarm clock. The alarm clock may include a sound recording device. The Examiner stated that it would have been obvious "that the sound recording device as taught by Shettino [sic] could be placed inside of the housing disclosed by Feng in order to be able to have the sound producing device within the housing."

The Applicant respectfully disagrees and submits that the only motivation to make the combination is found in the specification rather than the Feng or Schettino

references alone or in combination. Nothing in Schettino contemplates incorporating the sound recording device into a massage device, such as that disclosed by Feng, or enclosing the sound recording device in the housing of an integrated remote control and massage device, as claimed.

Likewise, there is nothing whatsoever in Feng that contemplates the addition of a sound recording device to the massager. The audio input in Feng is a passive input, and the addition of a sound recording device would not be suggested by its presence. Therefore, there is no motivation, suggestion, or teaching that would provide for any such combination.

Consequently, neither Feng nor Schettino contains all of the elements of the instant invention as claimed, and no combination of these references would produce the instant invention. Therefore, the rejection of Claims 21-23 under 35 U.S.C. §103(a) should be withdrawn.

9. Conclusion.

Based on the foregoing, Applicants respectfully request that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the present form of the claims, and that a Notice of Allowance be issued for the present application to pass to issuance.

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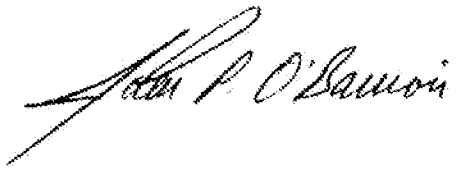
In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the

undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Dated: 09/26/2006.

Respectfully submitted,



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